

Notice
of Rulemaking Hearing

Department of Mental Health and Developmental Disabilities
Office of Licensure

There will be a hearing before the Tennessee Department of Mental Health and Developmental Disabilities to consider the promulgation of amended rules and repeal of rules pursuant to T.C.A. §§ 4-4-103; 4-5-202, and 204; 33-1-302, 305, and 309; 33-2-301 and 302; 33-2-404; and Executive Order 44 (February 23, 2007). The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204 and will take place in the Tennessee Room on the Ground Floor of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, Tennessee at 10:00 a.m. Central Daylight Time on the 17th day of June, 2008.

Individuals with disabilities who wish to participate in these proceedings or review these filings should contact the Tennessee Department of Mental Health and Developmental Disabilities, to discuss any auxiliary aids or services needed to facilitate such participation or review. Such contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to the scheduled meeting date or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Mental Health and Developmental Disabilities ADA Coordinator, Gwen Hamer, 5th Floor, Cordell Hull Building, 425 5th Avenue North, Nashville, Tennessee 37243. Ms. Hamer's telephone number is (615) 532-6510; the department's TDD is (615) 532-6612. Copies of the notice are available from the Tennessee Department of Mental Health and Developmental Disabilities in alternative format upon request.

For a copy of the entire text of this notice of rulemaking hearing contact:

Karen Edwards, Rules Coordinator, Department of Mental Health and Developmental Disabilities, 425 5th Avenue North, 5th Floor, Cordell Hull Building, Nashville, Tennessee 37243-1010, (615) 532-3648.

Substance of Proposed Rules

Chapter 0940-05-39

Minimum Program Requirements for Alcohol and Drug Abuse D.U.I. School Services

Amendments

Rule 0940-05-39-.01 Definitions is amended by deleting the rule in its entirety, so that, as amended, the rule shall read:

0940-05-39-.01 Definition.

- (1) "Alcohol and Drug Abuse D.U.I. School Facility" means an intervention program providing assessment, education and, if indicated, appropriate treatment referral, for offenders of driving under the influence of alcohol and other drugs (i.e., convicted of violation of T.C.A. § 55-10-401.

Rule 0940-05-39-.02 Licensing Procedures is amended by deleting the rule in its entirety, so that, as amended, the rule shall read:

0940-05-39-.02 Application of Rules.

- (1) The governing body of a D.U.I. School Service must provide services and facilities where services are rendered which comply with the following rules:
 - (a) Rule 0940-5-4-.03(2) Life Safety Educational Occupancies rule;
 - (b) Rule 0940-5-6 Minimum Program Requirements for All Facilities; and
 - (c) Rule 0940-5-15 Minimum Program Requirements for D.U.I. School Services.

Rule 0940-05-39-.03 Disciplinary Procedures is amended by deleting the rule in its entirety, so that, as amended, the rule shall read:

0940-05-39-.03 Policies and Procedures.

- (1) The facility must maintain a written policy and procedure manual which includes the following:
 - (a) Documentation of court referral procedures including relationship with courts and communication procedures;
 - (b) A description of course curriculum;
 - (c) Class schedule including length of course and classes;
 - (d) Procedures directed towards maintaining confidentiality by having all students acknowledge that they understand the confidentiality rules and will abide by them;
 - (e) An organizational chart or a statement which clearly shows or describes the lines or authority between the governing body, the chief executive officer, and the staff;
 - (f) A description of services provided by the Licensee. The description shall include at a minimum the hours of operation, admission and discharge criteria, and fee scale for services offered to recipients;
 - (g) Exclusion criteria for persons not appropriate for admission;
 - (h) A schedule and explanation of fees, if any, currently charged to the service recipient for all services provided by the Licensee;
 - (i) The intake and assessment process must use the Substance Abuse Life Circumstance Evaluation (SALCE), NEEDS, Addictions Severity Index (ASI) or the Diagnostic and Statistical Manual (DSM);
 - (j) A statement of service recipient rights including, but not limited to, obligations to disclose information to referring agencies; and
 - (k) Grievance procedures for the service recipient.

Rule 0940-05-39-.04 Administration is amended by deleting the rule in its entirety, so that, as amended, the rule shall read:

0940-05-39-.04 Personnel and Staffing Requirements.

- (1) Assessment, screening, education and referral services must be provided by qualified alcohol and drug abuse personnel.
- (2) All teachers shall be certified in Cardiopulmonary resuscitation (CPR), First Aid, and the Abdominal Thrust.
- (3) All staff members providing direct services to D.U.I. school recipients must have six (6) hours of continuing education annually in screening and assessing alcohol and drug abuse issues.
- (4) Staffing:
 - (a) A personnel record for each staff member of a service shall include an application for employment and a record of any disciplinary action taken;
 - (b) Wage and salary information, time records, and authorization and record of leave, shall be maintained but may be kept in a separate location;
 - (c) A job description shall be maintained which includes the employment requirements and the job responsibilities for each facility staff position;
 - (d) A personnel record shall be maintained which verifies that each employee meets the respective employment requirements for the staff position held, including annual verification of basic skills and annual evaluation of personnel performance. This evaluation shall be in writing. There shall be documentation to verify that the employee has reviewed the evaluation and has had an opportunity to comment on it;
 - (e) Training and development activities which are appropriate in assisting the staff in meeting the needs of the service recipients being served shall be provided for each staff member; and
 - (f) Direct-services staff members shall be competent persons aged eighteen (18) years of age or older.

Rule 0940-05-39-.05 Admissions, Discharges, and Transfers is amended by deleting the rule in its entirety, so that, as amended, the rule shall read:

0940-05-39-.05 Service Recipient Record Requirements.

- (1) The individual client record must include the following:
 - (a) Assessment
 1. The facility shall complete a standardized nationally recognized assessment instrument and document the findings. The assessment shall consist of the following information:
 - (i) assessment of current functioning according to presenting problem including history of the presenting problem;
 - (ii) basic history and information, including drug usage;

- (iii) a six (6) month history of prescribed medications, frequently used over-the-counter medications, and alcohol or other drugs including patterns of specific usage for the past thirty (30) days; and
- (iv) referral to an appropriate treatment resource and notification of such referral to the initial referral source, if the individual assessment indicates an alcohol and drug problem.

- (b) Referral Services recommended and/or required for the service recipient, if applicable.

Rule 0940-05-39-.06 Basic Services is amended by deleting the rule in its entirety, so that, as amended, the rule shall read:

0940-05-39-.06 Class Requirements.

- (1) All D.U.I. School Services must provide a minimum of twelve (12) hours of instruction to each student. Any student who does not complete twelve (12) hours of curriculum instruction has not completed the requirements for D.U.I. School.
- (2) Class size must not exceed twenty-five (25) students and. The number of students in a class must be based on the occupancy load approved by the Fire Marshall.

Rule 0940-05-39-.07 Building Standards is amended by deleting the rule in its entirety, so that, as amended, the rule shall read:

0940-05-39-.07 Curriculum Requirements.

- (1) The facility must instruct each student in current information areas including the following:
 - (a) Traffic Safety aspect of alcohol and drug use including:
 - 1. Overview of the D.U.I. problem in Tennessee;
 - 2. Tennessee laws relevant to D.U.I.;
 - 3. Why the offenders are in school (probable causes for stopping an impaired driver);
 - 4. Relationship of blood alcohol and other drug use on driving ability;
 - 5. Techniques for avoiding driving while impaired; and
 - (b) Physiological aspects of alcohol and other drug use, including:
 - 1. Pharmacological and physical effects of alcohol and other depressants;
 - 2. Pharmacological and physical effects of other drugs;
 - 3. The potentiating effect of combining alcohol and other drugs; and
 - (c) Psychological aspects of alcohol and other drug use including:
 - 1. Dynamics alcohol and other drug use, abuse, and addiction, e.g., loss of control, denial, delusion, blaming, and guilt;

2. The progression of addictive behavior;
3. Dynamics in an alcohol and/or other drug abusive family;
4. The impact of alcohol and other drug addiction on other life aspects, e.g., emotional, physical, professional, legal, spiritual, rational, and intellectual; and
5. Local treatment resources and community support groups, e.g., Alcoholics Anonymous, Narcotics Anonymous, and Adult Children of Alcoholics.

Rule 0940-05-39-.08 Life Safety is amended by deleting the rule in its entirety, so that, as amended, the rule shall read:

0940-05-39-.08 Reporting Requirements.

- (1) The facility must report to the Department of Mental Health and Developmental Disabilities Division of Alcohol and Drug Abuse Services on a quarterly basis the following data:
 - (a) Number of offenders entering the school;
 - (b) Number of offenders completing the school;
 - (c) Number of offenders served by age, race, and sex;
 - (d) Number of out of state D.U.I. referrals;
 - (e) Number of offenders in each problem severity category per the screening for alcohol and drug problem; and
 - (f) Number of offenders referred for treatment.

Authority: T.C.A. §§ 4-4-103; 4-5-202; 33-1-302, 305, 309; 33-2-301, and 302; and Executive Order 44 (February 23, 2007).

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of April, 2008. (FS 04-21-08; DBID 848)